

REMARKS

This Preliminary Amendment is filed in the Request for Continued Examination (RCE) filed on even date herewith, and in response to the FINAL Office Action mailed December 3, 2003, and in response to the Advisory Action mailed on March 12, 2004, and as a supplement to the Amendment after FINAL Rejection under 37 C.F.R. 1.116 filed on February 12, 2004. All objections and rejections are respectfully traversed.

Claims 1-3, 5-7, 9-11, 13-17 are in the case.

No claims were added or amended.

Please enter and consider the Amendment under 37 C.F.R. 1.116 filed on February 12, 2004.

In the Advisory Action mailed on March 12, 2004, the Examiner states:

“The proposed amendment appears to lack factual evidence regarding the enablement issues raised in the final rejection.”

Applicant respectfully urges that the facts set out in the Specification, and as explained in the Amendment under 37 C.F.R. 1.116 filed February 12, 2004, are sufficient

to rebut the Examiner's factual analysis required by MPEP 2106.02, where the first paragraph of MPEP 2106.02 states:

“To establish a reasonable basis for questioning the adequacy of a disclosure, the examiner must present a factual analysis of a disclosure to show that a person of reasonable skill in the art would not be able to make and use the claimed invention without resorting to undue experimentation.”

In the FINAL Office Action mailed on December 3, 2003, at paragraph 3.2 on Page 3, the Examiner's principal point is to ask for flow charts or text descriptions of :

“(1) how to interconnect the computer components and program them to pass the data necessary to determine the timing based on physical characteristics or hierarchial analysis; or
(2) how to combine the physically accurate description of the timing of the first system portion with the appropriate mathematical model of the timing of a remaining system portion.”

Applicant respectfully urges: first, that disclosure of actual electrical connections used in practicing the invention would not be appropriate, because the invention is written at an abstract level so that it covers many different sets of electrical connections; and second, that a person of ordinary skill in the art who understands Applicant's representation of the prior art in Fig. 4 and Fig. 6 can easily understand the changes made by Applicant as shown in Fig. 1, Fig. 2, Fig. 3, and Fig. 5.

Further, the text descriptions of Fig. 1, Fig. 2, Fig. 3 and Fig. 5, as they occur in the Specification, are sufficient to guide a person of ordinary skill in the appropriate art, that is someone who understands prior art Fig. 4 and prior art Fig. 6. With this guidance, a person of ordinary skill in the appropriate art can make the required transition to understanding the invention as set out in Fig. 1, Fig. 2, Fig. 3, and Fig. 5 without undue experimentation.

Further, Applicant notes that the Examiner has raised the question posed in MPEP 2106.02, but has failed to analyze, as required by MPEP 2106.02, why a person who understands the prior art figures, Fig. 4 and Fig. 6, could not understand, with the help of the text, Fig. 1, Fig. 2, Fig. 3, and Fig. 5 without undue experimentation.

All independent claims are believed to be in condition for allowance.


All dependent claims are believed to be dependent from allowable independent claims, and therefore in condition for allowance.

Favorable action is respectfully solicited.

Please charge any additional fee occasioned by this paper to our Deposit Account

No. 03-1237.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "A. Sidney Johnston", written over a horizontal line.

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